



Federal Communications Commission
Washington, D.C. 20554

December 6, 2012

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Measuring Broadband American Program, GN Docket No. 12-264

Dear Ms. Dortch:

On December 5, 2012, Erin Kenneally, eLCHEMY, and Scott Coull, RedJack, met in person and via conference call with James Miller, Electromagnetic Compatibility Division Senior Attorney Advisor, to discuss the Commission's broadband measurement and performance program for broadband performance on mobile handsets. The meeting focused on discussion of privacy issues and program goals described in a review document presented at the November 28, 2012 mobile collaborative meeting.¹

Mr. Miller discussed aspects of the two-year fixed program and the legal and technical mechanisms in place to protect subscribers' privacy. He answered questions regarding sections of the user Terms and Conditions that support ISPs' validation of information about volunteers' broadband service, such as speed tier.

Mr. Miller sought feedback on the document presented at the November 28, 2012 mobile collaborative meeting. He explained that the document was intended to frame staffs' initial thinking regarding privacy policy objectives and concerns, and describe a range of typical use cases with a desired information element or output coupled with the necessary data elements required to produce the output. Mr. Miller also asked how disclosure controls might be fashioned for the use cases and concerns articulated in the November 28 review draft, using the Qualitative Risk Assessment Framework presented by Mr. Coull and Ms. Kenneally at the September 2012 Telecommunication Policy Research Conference.²

Meeting attendees discussed that focusing on specific use cases, consumers of data, and data products would help identify the risks and utility needs that might help define disclosure controls that would address specific concerns in ways that would maximize the utility of data and minimize risks and concerns.

¹ The review document, *available at* <http://apps.fcc.gov/ecfs/document/view?id=7022069988>, and an ex parte filing of the November 28, 2012 meeting, *available at* <http://apps.fcc.gov/ecfs/comment/view?id=6017145746>, are available in GN Docket No. 12-264.

² S. Coull and E. Kenneally, A Qualitative Risk Assessment Framework for Sharing Computer Network Data Presented at the 40th Research Conference on Communication, Information, and Internet Policy (TPRC). Arlington, VA. September 23, 2012, *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2032315.

How disclosure of data for general release or specific data sets with agreements and restrictions could offer ways to tailor disclosure restrictions to use cases was also discussed. Mr. Miller discussed that the data release strategy of the fixed program did not limit the use of raw data once publicly released, and that limiting the use of the data subject to disclosure control agreements would introduce administrative and operational concerns. Attendees discussed that data for public release could be processed in order to preserve the value of the data for the specific use case and still achieve privacy goals and disclosure controls. Because release of multiple data products might include elements that could be linked across data sets, how the data could be analyzed together was also discussed as a topic for review.

Mr. Miller suggested that three likely consumers of data might include volunteer subscribers with access to their broadband performance data, researchers seeking to use data or analytic products in developing new research, and policy makers relying on data and analysis in policy development. He sought feedback on the value of including in a privacy policy statement different sections addressing the specific utility, risks and disclosure concerns for each set of users and data products.

Attendees discussed such a documentation of the use cases, utility and risks for each scenario as a useful approach.

Sincerely,

A handwritten signature in black ink, appearing to be 'James Miller', written over a horizontal line.

James Miller, Senior Attorney Advisor
Electromagnetic Compatibility Division/OET